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10/056,494	01/28/2002	William P. Cramer	20011CR	2287

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EXAMINER

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ART UNIT	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/056,494
Filing Date: January 28, 2002
Appellant(s): CRAMER, WILLIAM P.

Herman H. Bains
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 20, 2005 appealing from the Office action mailed October 6, 2004.

Compliance with 37 CFR 41.37

Appellant's brief is missing the following item~~s~~: (x) Related proceedings appendix as required by 37 CFR 41.37. This item is required even if "none" is listed after the heading. Since it is clear from the record that there are no related proceedings as evidenced by appellant's statement on page two that "There are no related appeals or interferences," the examiner has assumed that the appellant meant to include the appendix with a statement of "NONE".

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

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(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Colonial Pipeline Company, website, 11/21/2000.

Federal Highway Administration Guide, "Utility Relocations, Adjustments, and Accommodation on Federal-Aid-Highway Projects", 1/2001.

David Diamond, "Building the Future-Proof Telco", 5/1998.

Mapquest on-lines maps, North Carolina, South Carolina.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Colonial Pipeline Company

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website pages including sections entitled "Terminalling Services," "About Us," and "System Map." Colonial Pipeline Company discloses a petroleum distribution system that includes supply lines below the ground surface, such supply lines include pumping stations i.e. terminals. The system map shows the distribution system passing through several states and it would be inherent that should the pipeline system need to pass or parallel an interstate highway, that proper "permission" is acquired. The claims also do not specify a specific length of pipeline. Therefore, with the length of underground pipe and all of the interstates traversing the U.S., the pipeline would definitely extend below and immediately adjacent the highways for at least some undetermined finite length. In the alternative, it would have been obvious matter of design choice to one of ordinary skill in the art to place a pipeline under the median of a highway, since doing would facilitate laying out of the pipeline from a "point a" to a "point b", for example. As to the product being electricity, it would have been obvious to one of ordinary skill in the art to provide an electricity as an energy product, since the use of electricity is well known and lines for electricity are known to be provided underground for fiber optics and telecommunications for example.

Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by the Federal Highway Administration Program Guide entitled, "Utility Relocations, Adjustments, and Accommodation on Federal-Aid Highway Projects," hereinto referred to as FHWA. FHWA discloses the provision of utility pipelines along highways right-of-ways, see in particular the last page of the document.

Claims 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by "Building the Future-Proof Telco" by David Diamond. Diamond discloses the placement of fiber optic cable along interstate highways.

(10) Response to Argument

The use of pipelines is old and well known whether the pipelines are laid above ground or underground. Research and analysis is obviously involved in the laying of pipelines, the laying of pipeline further requires the permission of the use of land whether privately or publicly owned. Therefore, in a scenario where economical and environmental studies are positive, and all permissions and land rights are obtained, a pipeline may be laid anywhere, including the median of a interstate highway system.

Colonial Pipeline Company (CPC) discloses an underground pipeline system that is more than 5,300 miles long. The CPC System Map shows the pipeline traversing approximately 9-10 states. CPC discloses terminals in Birmingham, Doraville, Spartansburg, Charlotte, and Greensboro which are along the main pipeline. The main pipeline and corresponding "terminal" cities appear to track Interstate 85. Therefore, it is possible and is capable of laying pipeline in the median of an interstate highway system.

The FHWA discloses the burying of pipelines. FHWA discloses that although the burying of pipelines is the most aesthetic it also is the most expensive; therefore, it is possible to bury such pipelines in the median or right of way of an interstate highway system for any desired or specified length. Although, FHWA does not specifically

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discloses an oil pipeline, it discloses utility pipelines and the oil pipeline is read as a utility pipeline.

"Building the Future-Proof Telco" discloses the laying of cables along interstate highways. Therefore, it is capable to lay these cables along a major length of an interstate highway system.

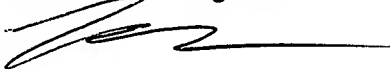
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Frederick L. Lagman



Conferees:

Suzanne Barrett 

Darnell Jayne 

(12) Evidence Appendix

Colonial Pipeline Company, website, 11/21/2000.

Federal Highway Administration Guide, "Utility Relocations, Adjustments, and Accommodation on Federal-Aid-Highway Projects", 1/2001.

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